



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2014-0333; FRL-9914-11-OAR]

Approval and Promulgation of Implementation Plans; Washington: Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is partially approving and partially disapproving the State Implementation Plan (SIP) submittal from the State of Washington (Washington or the State) demonstrating that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for lead on October 15, 2008. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIP to ensure that it meets the infrastructure requirements necessary to implement the new or revised NAAQS. On April 14, 2014, Washington certified that the Washington SIP meets the infrastructure requirements of the CAA for purposes of the 2008 lead NAAQS, except for those requirements related to the Prevention of Significant Deterioration (PSD) permitting program currently operated under a Federal Implementation Plan (FIP). The EPA has determined that Washington's 2008 lead SIP is adequate for purposes of the infrastructure SIP requirements of CAA section 110, with the exception of the requirements related to PSD permitting and portions of the interstate transport requirements. The EPA finds that the SIP deficiencies related to PSD permitting, however, have been adequately addressed by the existing EPA FIP and, therefore, no further action is required by Washington or the EPA. The EPA will address the remaining interstate transport requirements in a separate action.

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA-R10-OAR-2014-0333. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553-0256, hunt.jeff@epa.gov, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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I. Background

On April 14, 2014, Washington submitted a certification that the State SIP meets the requirements of CAA sections 110(a)(1) and (2) for the 2008 lead NAAQS, except for the requirements related to PSD permitting and portions of the interstate transport requirements. On May 14, 2014, The EPA proposed to partially approve and partially disapprove the submittal (79 FR 27533). An explanation of the CAA requirements and implementing regulations that are met by this SIP submittal, a detailed explanation of the revision, and the EPA's reasons for approving it were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on June 13, 2014. We did not receive any comments on the proposal.

II. Final Action

The EPA is partially approving the April 14, 2014, submittal from Washington to demonstrate that the SIP meets the requirements of sections 110(a)(1) and (2) of the CAA for the lead NAAQS promulgated on October 15, 2008, except for the requirements related to PSD permitting and portions of the interstate transport requirements as discussed in the proposed rulemaking for this action. Specifically, we have determined that the current EPA-approved Washington SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2008 lead NAAQS: (A), (B), (C) - except for those elements covered by the PSD FIP, (D)(i)(II) – except for those elements covered by the PSD FIP, (D)(ii) – except for those elements covered by the PSD FIP, (E), (F), (G), (H), (J) - except for those elements covered by the PSD FIP, (K), (L), and (M). As noted in the proposed rulemaking, the EPA anticipates that there would be no adverse consequences to Washington or to sources in the State resulting from this partial disapproval of the infrastructure SIP related to PSD. The EPA, likewise, has no additional FIP responsibilities as a result of this partial disapproval for requirements related to PSD. Remaining

interstate transport requirements under CAA section 110(a)(2)(D)(i)(I) for the 2008 lead NAAQS will be addressed in a separate action.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the state, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989*, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated September 3, 2013. The EPA did not receive a request for consultation.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the

U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: July 7, 2014.

Dennis J. McLerran
Regional Administrator
Region 10.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401, et seq.

Subpart WW - Washington

2. In §52.2470, paragraph (e) is amended by adding the entry “110(a)(2) Infrastructure Requirements – 2008 Lead Standard” to Table 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS under the heading “110(a)(2) Infrastructure and Interstate Transport” after the entry for “110(a)(2) Infrastructure Requirements—1997 ozone standard” to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(e) * * *

TABLE 2 – ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
110(a)(2) Infrastructure and Interstate Transport				
* * * * *				
110(a)(2) Infrastructure Requirements – 2008 Lead Standard	Statewide	4/14/14	[Insert <u>Federal Register</u> publication date] [Insert <u>Federal Register</u> citation]	This action addresses the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

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[FR Doc. 2014-17243 Filed 07/22/2014 at 8:45 am; Publication Date: 07/23/2014]